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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,108	06/20/2001	Francois Court	33808F151	3475

31684 7590 10/04/2005

ARKEMA INC.
PATENT DEPARTMENT - 26TH FLOOR
2000 MARKET STREET
PHILADELPHIA, PA 19103-3222

EXAMINER

MULLIS, JEFFREY C

ART UNIT PAPER NUMBER

1711

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,108

Applicant(s)

COURT ET AL

Examiner

Jeffrey C. Mullis

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-16, 18-20 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-16, 18-20 and 22-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 1711

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-16, 18-20 and 22-25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Court et al. (FR 2772038) in view of Okada (US 5,418,275).

Claim 2 of the patent discloses a composition having 25-95% of semicrystalline thermoplastic and 5-75% of ABC block copolymer. The composition also may contain 10% of a thermoplastic "D" compatible with block C such as BBE at page 6 lines 33-38. Block A may be syndiotactic methylmethacrylate at page 5 line 25 and copolymerized with glycidyl monomers at page 5 line 33 while block B may be hydrogenated polybutadiene at page 6 lines 3-7 and block C may be polystyrene at page 6 lines 8-15. Note that the semicrystalline thermoplastic may be a homopolymer of A and/or C in patent claim 3 and include syndiotactic polystyrene at page 5 lines 9-12.

Note that an ABC polymethyl methacrylate-polybutadiene-polystyrene block copolymer is exemplified in Example 3. Note the last paragraph on page 6 which discloses that polyphenylene ether may be added when the C derived sequences are derived from styrene, i.e. the exemplified block copolymer in patentees' Examples may be combined with the thermoplastics described at the last paragraph on page 6 including polyphenylene ether. There are no specific examples of applicants' combination of polyphenylene ether and polystyrene

Art Unit: 1711

homopolymer although the patent discloses that such materials may be used. However the patent specifically exemplifies applicants' block copolymer and discloses elsewhere that block copolymers containing polystyrene sequences may be combined with polyphenylene ethers. While there are no examples of compositions containing applicants' block copolymer in combination with polystyrene and with polyphenylene ether, patentees disclose examples of applicants' specific block copolymer and also disclose that various polymers including polystyrene may be combined with block copolymer such as those produced in the Example and also discloses that optionally polyphenylene ether may be combined with a block copolymer containing styrene sequences as produced in patentees' Examples and for this reason arrive at a composition containing a block copolymer of patentees' Examples in combination with polyphenylene ether and polystyrene would have been obvious to a practitioner in the expectation of adequate results. Arguably, applicants may disagree since patentees do not disclose any particular benefit of a combination of polyphenylene ether and syndiotactic polystyrene. However note the secondary reference, U.S. Patent 5,418,275 which discloses numerous benefits accruable by use of a combination of polystyrene and syndiotactic polystyrene in the Abstract and therefore use of a combination of syndiotactic polystyrene polyphenylene ether were set out in the Abstract of U.S. Patent 5,418,275 in the composition of the primary reference would have been obvious to a practitioner having ordinary skill in the art at the time of the invention to produce a composition having the superior properties disclosed by the secondary reference absent any showing of surprising or unexpected results.

The Examiner regrets the above new grounds of rejection.

With regard to applicants' previous arguments regarding Court et al., applicants' response of 11-1-04, there is no basis in law for withdrawal of a reference used in a rejection under 35 U.S.C. § 103 which is available as prior art under paragraph (b) of 35 U.S.C. § 102 and furthermore no statement was made that the patent and application were 100% commonly owned at the time of the invention. With regard to applicants' argument that the '038 invention deals with a semicrystalline thermoplastic resin while the present invention involves non-crystalline resin, such a limitation is not present in the claims. Applicants argue that the C block of the ABC triblock of the '038 reference is not compatible with the semicrystalline resin while the S triblock (the Examiner believes applicants mean the S block) of the present invention is compatible with the polyphenylene ether/polystyrene resin mixture. However again no such limitation appears in the claims but rather the instant claims merely recite that "S is compatible with the resin (A)". The resin A in fact is a mixture and as is known in the art polyphenylene ether and polystyrene are an example of compatible resins and therefore the fact that the polyphenylene ether of resin A is compatible with S means that it is immaterial whether or not syndiotactic polystyrene is compatible with the block S since any resin A containing polyphenylene ether would reasonably appear to meet the limitation that "S is compatible with the resin (A)" in that compatibility of one of the components of resin A is present.

This Office action is not being made FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (571) 272-1075. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

Art Unit: 1711

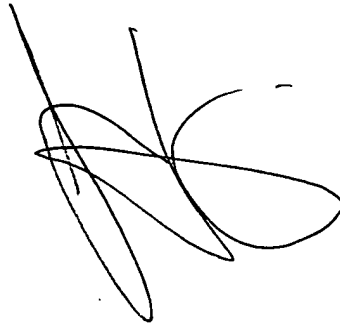
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (571) 272-1078. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-0994.

J. Mullis:cdc

September 30, 2005

Jeffrey Mullis
Primary Examiner
Art Unit 1711

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned below the printed name and title.